

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7101

BILL NUMBER: SB 359

NOTE PREPARED: Feb 2, 2006

BILL AMENDED: Jan 26, 2006

SUBJECT: Procurement and State Public Works.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR: Rep. Messer

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: *Equipment and Software:* This bill provides that advance payment may be made for equipment or software acquired by a state agency, regardless of cost, with the prior approval of the Budget Agency under certain circumstances.

Retainage: The bill provides discretion to determine when retainage on a state public works contract should be placed in an escrow account.

Purchasing: It permits an invitation to bid to contain evaluation criteria other than the specific criteria described in the statute. The bill authorizes a purchasing agency to conduct discussions with bidders before awarding a contract under an invitation for bids or after receiving quotes. It authorizes use of a reverse auction to issue requests for proposals (RFP) and to receive proposals. The bill makes other changes relating to reverse auctions. It eliminates the requirement for making a written determination as a condition to award a contract using an RFP. This bill permits information obtained from an offeror's proposal to be used in discussions with other offerors under certain circumstances.

The bill repeals statutes: (1) making bidding the default procurement procedure; (2) relating to public opening of bids; (3) relating to changes in bid prices; (4) that prohibit the use of a reverse auction to purchase certain construction equipment; (5) relating to conducting discussions with offerors during an RFP process; and (6) permitting adoption of rules or policies relating to the use of an RFP in place of competitive bidding. The bill makes technical changes.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Equipment and Software:* The impact of this provision would depend on how often the Budget Agency allows advance payment for equipment or software acquired by a state agency. The provision may make it easier for the state to acquire some equipment and computer software when an advance payment is required.

(Revised) *Retainage:* The provision to allow the state to decide if a retainage is required could reduce the administrative costs of retainage on certain projects. The provision would probably have minor state fiscal impact.

Purchasing: The changes in the bidding process should reduce the public purchasing costs. It is unknown how much the changes would save.

Explanation of State Revenues:

Explanation of Local Expenditures: See *Explanation of State Expenditures* regarding purchasing.

Explanation of Local Revenues:

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources:

Fiscal Analyst: Chuck Mayfield, 317-232-4825.